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November 23, 2004

Office of General Counsel
Attn: Jeff S. Jordan
Supervisory Attorney
Complaints Examination and Legal Administration
The Federal Election Commission
999 E. St. N.W.
Washington, D.C. 20463

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In re: MUR: 5581

Dear Mr. Jordan,

I have enclosed Nader for President 2004's response to Complaint MUR 5581 recently filed with your office. Please note that I am acting as counsel for both the Committee and for Carl Mayer, Treasurer.

The bulk of the assertions in this latest complaint, i.e., those concerning Oregon, Michigan and New Hampshire, are identical to earlier complaints filed by other parties to which the Nader campaign has already responded.

These earlier complaints include MUR 5475 and MUR 5489 (Oregon), MUR 5533 (Michigan) and MUR 5513 (New Hampshire).

Accordingly, the Nader campaign respectfully directs the Commission's attention to its responses to these prior complaints which are hereby adopted as the campaign's response to the instant assertions concerning Oregon, Michigan and New Hampshire.

To avoid burdening the file, we have not attached these prior responses, but will gladly supply additional copies to the Commission if that would be helpful.

If you have any questions, please feel free to contact me.

Thank you for your consideration of our response.

Sincerely,

Bruce I. Afran
myj

Bruce I. Afran

Attachments

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Response to Complaint MUR 5581:

This complaint is a repetition of three earlier complaints filed against the Nader campaign in connection with the Michigan, Oregon, and New Hampshire campaigns. The count as to Arizona is new and is addressed in substance below.

The Oregon Allegations

As to the Oregon complaint, the Nader campaign has already responded to these same allegations in connection with Complaints MUR 5475 and MUR 5489.

The Michigan Allegations

As to the Michigan complaint, the Nader campaign has already responded to these same allegations in connection with Complaint MUR 5533.

The New Hampshire Allegations

As to the New Hampshire complaint, the Nader campaign has already responded to these same allegations in connection with Complaint MUR 5513.

As to the Oregon, Michigan and New Hampshire allegations of this new complaint, the Nader campaign respectfully refers the Commission to its prior responses in MUR 5475, 5489 (Oregon), MUR 5533 (Michigan) and MUR 5513 (New Hampshire). The assertions in this new complaint as to Oregon, Michigan and New Hampshire do not differ in any material or factual manner from the assertions in these prior complaints and the Nader campaign's responses to said prior complaints are hereby adopted as a part of the response to this new Complaint MUR 5581.

Assertions as to Arizona

Paragraphs 46-57 contain certain assertions concerning the Arizona campaign that have not been a part of any previously filed complaint.

Accordingly, the Nader campaign sets forth its response to the Arizona count of the instant complaint.

The complainant asserts that in connection with challenges to Mr. Nader's Arizona nominating petitions, Mr. Nader "was represented ...by Lisa Hauser, a lawyer for the Arizona Republican Party." Para. 50(c). The complaint alleges further that Ms. Hauser was a "part of President Bush's legal team during the 2000 Florida recount." *Id.*

Neither of these assertions as to Mr. Nader's lawyer gives rise to any basis by the Commission to investigate. Lisa Hauser is an experienced elections lawyer who received a \$25,000 (Twenty-five Thousand Dollar) retainer paid by the Nader campaign from its

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own limited funds; Ms. Hauser represented the Nader campaign until this sum was exhausted. The campaign determined that it could no longer afford to defend against the ballot challenge and withdraw from the Arizona ballot. Nowhere does the complainant allege that Lisa Hauser was paid by any entity other than the Nader campaign; indeed, Ms. Hauser was paid by the Nader campaign and was retained as its counsel in the ordinary and usual course. Her retention by the Nader campaign involved no violation of Commission regulations and provides no basis on which the Commission can or should investigate.

Indeed, the sole basis of this claim appears to be that Ms. Hauser had worked at some time for Republican candidates as an elections lawyer. This is no basis for an assertion of a violation of any federal election regulations: lawyers often work for candidates of different parties and the skill and experience learned on behalf of one client can be applied just as easily to a client of another political party. The complaint implies that because a lawyer once worked for a republican candidate or a republican organization, they may never work for a candidate of another party without violating Commission regulations. There is no basis in law to such assertions. The Commission should not be asked to investigate the work of legitimate, licensed elections lawyers simply because they chose to work in a given election for a candidate of a different political party. Such a complaint is pure harassment and should not be countenanced by the Commission.

The assertions at paragraphs 47 through paragraph 50(a) and (b) are based on nothing more than news articles reporting that some republicans chose to aid Mr. Nader in his Arizona petition drive or in fundraising. These assertions provide no basis for a complaint or for investigation by the Commission.

Citizens are not limited in their right to work for a candidate by virtue of party affiliation. A citizen registered to any party can lawfully seek to aid a candidate of any other party, including independents such as Mr. Nader. Such is an expression of a citizen's First Amendment rights of free speech and association and do not give rise to a basis for investigation by the Commission. No basis exists in law for the proposition that members of one political party may not independently gather petitions for a candidate of another party, as the complainant suggests happened in Arizona. To the contrary, petition gathering is a fundamental aspect of protected First Amendment activity in the context of election campaigns. Such activities by any persons are lawful and protected by the Constitution's free speech, association and liberty guarantees. See e.g., Meyer v. Grant, 486 U.S. 414, 421-22 (1988).

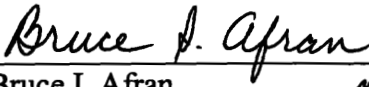
For the Commission to commence any investigation in such circumstances would be a direct intrusion into the political liberties of American citizens who are free to support any candidate of their choosing regardless of the citizen's party affiliation.

No factual assertion is made anywhere in the complaint that these so-called republicans acted in Arizona in coordination with the Nader campaign. Indeed, the Nader campaign has no knowledge of these activities except as reported through the news media.

Conclusion

As the foregoing submission shows, there is no basis for the Commission to proceed further on the complaint.

Respectfully submitted,



Bruce I. Afran *my*
Counsel for
Nader for President 2004 and
Carl Mayer, Treasurer

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FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, DC 20463

**Statement of Designation of Counsel
(Respondent/Witness)**

Name of Counsel: Bruce I. Afran

Firm: NA
10 Braeburn Drive, Princeton, NJ 08540

Telephone: (609) 924-2075

Fax: (609) 924-1045

The above named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

11/22/04
Date

[Signature]
Signature

Name (Print): THERESA AMATO, CAMPAIGN MANAGER

Address: PO Box 18002
Washington, DC 20036

Telephone: Home

Business (202) 265-4000 Nadu for President 2004 / Carl Mayer
Treasurer

Information is being sought as part of an investigation being conducted by the Federal Election Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section prohibits making public any investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.

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